

USSN 10/825,898

REMARKS

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The Examiner has held that the application contains claims directed to the following patentably distinct species:

A) The method of Claim 43 or 44 are alleged to be independent or distinct species as one method measures a decrease in activity of OPGbp while the other method measures an increase in OPGbp activity.

B) The claimed methods wherein the test compound binds OPGbp or ODAR are alleged to be independent and distinct because OPGbp and ODAR have distinct amino acid sequences and properties.

C) The claimed methods wherein the test compound is one of the compounds recited in claims 48, 49, 50 or 51 are alleged to be independent and distinct for the reasons cited in section B.

Applicant elects with traverse the following species:

A) The method of Claim 43 directed to identifying a compound which decreases the activity of OPGbp.

B) The claimed method wherein the test compound binds OPGbp.

C) The claimed method wherein the test compound is one of the compounds recited in Claim 48.

Applicant respectfully traverses the election requirement as the claims are directed to methods of identifying compounds and not the compounds themselves. Claims 43 and 44 would be patentably distinct if the method for determining a decrease in OPGbp activity was patentably distinct from that for determining a decrease in OPGbp activity. However, a method such as the one described in Example 8 of the specification may be used for measuring either an increase or a decrease in the activity of OPGbp. Thus, the methods encompassed by Claims 43 and 44 are not wholly separate and distinct. Moreover, the objections in sections B and C above are not relevant as they are directed solely to distinctions among compounds that are being tested in the claimed methods rather than differences in the methods themselves.

Without acquiescing to the election requirement and solely to advance prosecution, Applicant has cancelled pending Claims 43-57 and substituted new claims 58-70. Claim 58 is directed to method of identifying compounds which bind to OPGbp and decrease the activity of OPGbp, Claims 59-61 and

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68-70 are directed to a method of identifying certain compounds which bind OPGbp, Claims 62-65 are directed to a method whereby osteoclast formation by OPGbp is measured, and Claims 66 and 67 are directed to a method of identifying compounds with certain biological activities. Claims 58-70 have been identified as reading on the elected species A and B. Claims 68-70 read on elected species C in that they encompass compounds which bind OPGbp.

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CONCLUSION

Applicants believe that Claims 58-70 are in condition for allowance and an early notice thereof is solicited.

Respectfully submitted,



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